IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 306 of 2005

Between:

A. Sankarappa, S/o. Veerappa, Occ: ADC.
Tyagaraja Street, Mandanapally, Chittoor District.

.....PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Kuppam Depot, Kuppam, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, Order or directions, more in the nature of Writ of Mandamus, declaring the charge sheet and suspension Order dated 20-12-2004 as illegal and arbitrary and set aside the same with all consequential benefits.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed challenging the suspension order, dated 20.12.2004.

With regard to the first charge, the learned Counsel for the petitioner submitted that the petitioner was not referred to the Medical Officer to test whether he was under the influence of alcohol or not while performing the duty on 04-11-2004. With regard to the second charge, learned counsel submitted that at one stage in the charge-sheet it was alleged that the petitioner was found with an excess amount of Rs.27/- and at another stage it was alleged that the petitioner wrongly fed an amount of Rs.275/- in the cash-book of one Smt. K.Jayalakshmi while receiving the bus-cash, but the respondent did not frame any charge with regard to the said amount of Rs.27/- said to have been found excess with the petitioner and therefore, the impugned order suffers from legal and factual infirmities, hence he prays to set aside the same.

On the other hand, the learned Counsel for the Respondent-Corporation submitted that the impugned order is only suspension order pending enquiry, therefore there are no grounds to interfere with the same.

On the report given by the S.T.I. Kuppam on 04.11.2004 stating that the

petitioner while discharging duties consumed alcohol and he was unable to count the currency notes received from the conductors towards bus-cash. Therefore, the petitioner was placed under suspension. The charges framed against the petitioner read as under:

> "**Charge No.1:** "For having performed duty in the influence of alcohol on 4.11.2004 from 16.00 hours to 00.00 hours in the earnings section which is a serious misconduct under Reg.28 (xxxi) of APSRTC Employees Conduct Reg..1963".
>
> **Charge No.2:** "For having wrong feeding of bus cash of a Conductor while receiving bus cash in the earnings section i.e., feeding Rs.275/- short in respect of conductor Smt.K.Jayalakshmi into the cash book of computer in your duty on 4.11.2004 which is a serious misconduct under Reg.28 (ix-a) of APSRTC Conductor Reg.1963."

There is no discrepancy, as such, with regard to the excess amount. An amount of Rs.27/- is found to be excess, whereas an amount of Rs.275/- was found to be short in respect of the Conductor Smt K.Jayalakshmi. In any view of the matter, it has to be decided in the enquiry. With regard to the non-sending of the petitioner to the medical expert to know as to whether he was under the influence of alcohol or not, the same has to be decided by conducting a test on the petitioner, on the spot, with a breathe analyser and accordingly a test was conducted and confirmed that he has under the influence of alcohol while performing the duties which is a serious misconduct. Hence, the respondents rightly placed the petitioner under suspension. The jurisdiction of the authority is not under challenge. The impugned order does not suffer from any illegality or irregularity warranting interference by this Court.

With the above observations, the writ petition is disposed of directing the respondent-Corporation to conduct an enquiry and dispose of the matter within three months from the date of receipt of copy of the order. No order as to costs.

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K.C. Bhanu, J

Date:19.01.2005

MRKR

To

1.The Depot Manager, A.P.S.R.T.C., Kuppam Depot, Kuppam, Chittoor District.

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